



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,860	02/06/2004	Rajesh Banginwar	30320/18023	7222
4743	7590	06/01/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			LAU, TUNG S	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EF

<b>Office Action Summary</b>	Application No. 10/773,860	Applicant(s) BANGINWAR ET AL.	
	Examiner Tung S. Lau	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.  
 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-23 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>See office action</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Information Disclosure Statement

1. Information Disclosure Statement filed on 07/16/2004 is acknowledged by the examiner; A copy of a signed PTO-1449 attached with this office action.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by

Thelander et al. (U.S. Patent Application Publication 2003/0009705).

Regarding claim 1:

Thelander discloses an article comprising a machine-accessible medium having stored thereon instructions that, when executed by a machine, cause the machine to: measure power usage on the machine (abstract), in response to a measured quantum of power usage, sample state data of the machine (abstract, fig. 4).

Art Unit: 2863

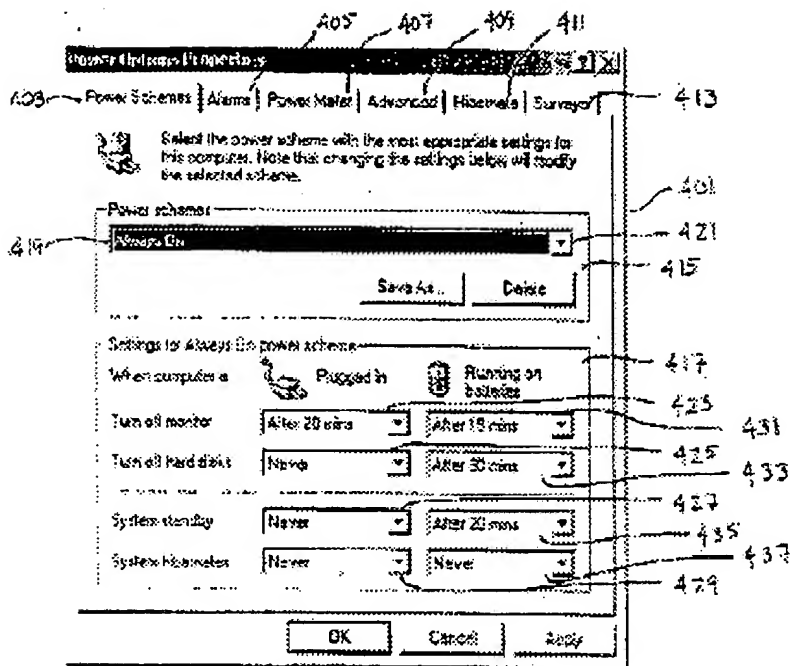


FIG. 4

Regarding claim 10:

Thelander discloses a method of profiling code executable on a machine, comprising: measuring power usage on the machine (abstract), in response to a measured quantum of power usage, sampling state data on the machine (abstract, fig. 4).

Regarding claim 20:

Thelander discloses an apparatus comprising: a power measurement module (abstract); a power sampling module coupled to the power measurement module for sampling state data of the apparatus in response to a power usage metric

measured by the power measurement module (abstract, page 1, section 0008,

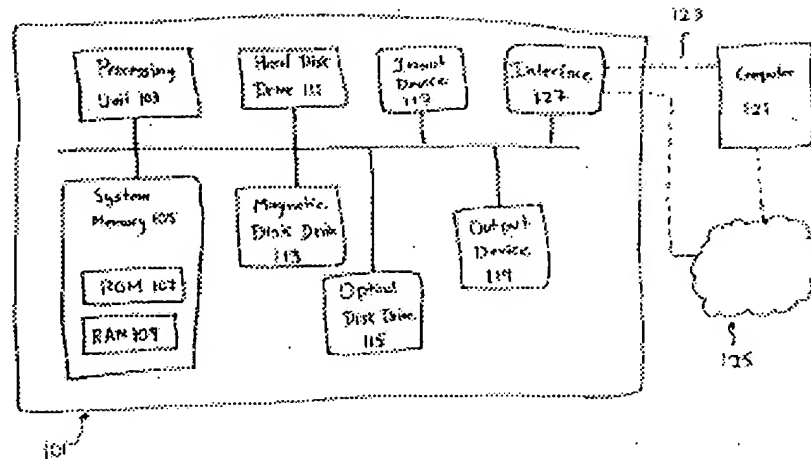


FIG. 1

fig. 1, unit 121).

Regarding claim 2, Thelander discloses provide the sampled state data to a performance analysis module (abstract, fig. 1, unit 121); Regarding claim 3, Thelander discloses the machine has a power measurement module (abstract, fig. 1, unit 121); Regarding claim 4, Thelander discloses the machine comprises a plurality of subsystems and wherein the power measurement module is coupled to at least one of the plurality of subsystems for measuring power usage of the at least one of the plurality of subsystems (fig. 1, unit 121, 111, 117, 105); Regarding claim 5, Thelander discloses measure power usage of at least one of the plurality of subsystems (fig. 1, unit 121, 111, 117, 105); Regarding claims 6, 14, Thelander discloses a network subsystem (fig. 1, unit 121, 111, 117, 105); Regarding claims 7, 15, Thelander discloses a input/output device

(fig. 1, unit 121, 111, 117, 105); Regarding claim 8, Thelander discloses state is a program counter (fig. 4, unit 423, 431); Regarding claim 9, Thelander discloses status of at least one subsystem of the machine (fig. 1, unit 117, 111, 103).

Regarding claim 11, Thelander discloses a plurality of subsystems, and wherein measuring power usage comprises measuring power delivered to at least one of the plurality of subsystems (fig. 1, unit 117, 111, 103); Regarding claim 12,

Thelander discloses a plurality of subsystems, measuring power usage comprising measuring power consumed by at least one of the plurality of subsystems (fig. 1, unit 117, 111, 103); Regarding claim 13, Thelander discloses a plurality of subsystems and a power measurement module capable of measuring power delivered to at least one of the plurality of subsystems (fig. 4, unit 423, 431); Regarding claim 16, Thelander discloses providing power the machine (fig. 4, unit 423, 431); Regarding claim 17, Thelander discloses provide sample state to a analyzer (abstract, fig. 1, unit 121); Regarding claims 18, 19, 23, Thelander discloses a program counter (fig. 4, unit 423, 431, fig. 14, unit 1403).

Regarding claim 21, Thelander discloses a power source (fig. 4, unit 423, 431);

Regarding claim 22, Thelander discloses a quantum power used on the apparatus (fig. 14, unit 1409).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to

Art Unit: 2863

reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL

**BRYAN BUI**  
**PRIMARY EXAMINER**

